

TOWN OF CORNWALL

ZONING BOARD

April 15, 2013

MEMBERS PRESENT:     LENORA RANSOM, CHAIRPERSON  
                          EILEEN REGAN  
                          TED DOBIAS  
                          ARLENE ROBERTS

ALSO PRESENT:   ADAM RODD, ESQ.  
                  ZONING BOARD ATTORNEY

ABSENT:   BILL LEE

MEETING AGENDA:

1. John Hartwig

**PUBLIC HEARING -- HARTWIG**

MS. RANSOM: The April 15, 2013 meeting of the Cornwall Zoning Board of Appeals will now come to order. We have one hearing this evening on the request of John Hartwig, 3 Gayton Drive. We'll read the public notice. Notice is hereby given that the Zoning Board of Appeals of the Town of Cornwall, County of Orange, State of New York will hold a public hearing at the Town Hall, 183 Main Street, Cornwall, New York on April 15, 2013 at 7:00 p.m. or soon thereafter as the matter can be heard on the application of John Hartwig relating to property located at 3 Gayton Drive and designated on the tax map as Section 36, Block 1, Lot 53. The applicant seeks an area variance to Section 158-21 K(1) of the Zoning Ordinance in order to allow an 18 by 34 foot kidney shaped inground pool to encroach into the front yard on a lot with three front yards. The pool will be 52 feet from the right-of-way of Gayton Drive on the easterly frontage of Gayton Drive where 75 feet is required. The applicant also seeks a variance to include and allow an existing screened-in porch and wood frame deck to remain in the encroached area of the same front yard. The property is located in the ARR Zoning

District Use Group B. The Zoning Board will hear all persons interested in the application. All written communication should be received by the board at or prior to the hearing. Dated: March 6, 2013 by Order of the Zoning Board of Appeals, Town of Cornwall, Lenora Ransom, Chairperson. Mr. Hartwig, I see you're here. You also have a proxy for someone to speak on your behalf. Would you like to make your presentation, please?

MR. GULLA: Yes.

MS. RANSOM: Can we have your name?

MR. GULLA: My name is Michael Gulla. I work for Neave Group. So just as a little background as a landscape designer, I have a Bachelors Degree in Landscape Architecture and over 15 years experience in the swimming pool design field. So by no means have I just decided that that location works best. I did exhaust all other location options. This particular location works best not only for my client but also for the surrounding environment. By moving the pool to the lower portion of the lot, you start to encroach on the septic setback which is obviously going to cause some public health concerns. Moving it lower also to the left portion of the lot starts to encroach on the existing wood line which would then disturb the surrounding ecology as well as cause some undesirable grading and drainage issues.

MS. RANSOM: Okay.

MR. GULLA: Questions?

MS. RANSOM: Just for the record, since we're also being asked to review a variance for the existing screened-in porch on the deck how far off the property line are they?

MR. GULLA: The deck is the same, the same distance off the property line, give or take two to three feet as the swimming pool will be.

MS. RANSOM: The deck is approximately 52 feet off the property line?

MR. GULLA: Correct.

MS. RANSOM: What about the porch?

MR. GULLA: Same thing.

MS. RANSOM: Okay.

MR. GULLA: The deck when built was permitted so there's a building permit that has been for the deck originally the setbacks for that lot was 35 feet and then they have been changed to 75 feet which then puts the deck and screened-in porch needing a variance.

MS. RANSOM: Okay. What kind of, okay, there's a tree line between the neighbor going up the hill, is there going to be any screening so that you can't see this pool as you're coming around and up the hill?

MR. GULLA: The screening around the pool will be four foot tall perennial grasses which would screen the view, there's also a 25 to 35 foot elevation change so it would not allow the normal cone of vision of a pedestrian to actually see into the pool area.

MS. RANSOM: Okay, and to actually put the pool in the back yard, front yard of this house you can't do it why?

MR. GULLA: There is a very, very steep slope there so this location requires the most minimal amount of excavation and then regrading and drainage work where we're going to be able to use the existing drainage patterns, meaning that as the water sheets off that hill, it's going to be captured by a pipe, wrap it around the pool and sheeted down the rest of the hill. If we were going to move closer to the wood line, we're going to have to capture and point source the water so it would be a concentrated flow of water which would then alter the drainage patterns of the area.

MS. RANSOM: Is there going to be, what's going to be around the pool?

MR. GULLA: A paver patio.

MS. RANSOM: How many feet of paver patio is there going to be?

MR. GULLA: I believe it's somewhere between six and 800 square feet.

MS. RANSOM: Okay, and you can't put the pool any

farther towards I guess the front because of the septic?

MR. GULLA: Correct. If you're looking at the map with the north arrow facing down, correct, or I'm sorry, how are we orienting this?

MS. RANSOM: I have it like I was going up Gayton Drive.

MR. GULLA: Okay, perfect, so if we were to move the pool down towards the lower portion of Gayton Drive it would start to encroach on the septic system which is illustrated on the map that you have.

MS. RANSOM: Okay, is this a stone wall or some sort of retaining wall?

MR. GULLA: There's a retaining wall both on the upper and lower portion of the proposed pool location and that is to deal with the grade issue.

MS. RANSOM: Okay, and when I spoke with Mr. Hartwig the evergreens that are along Gayton Drive are all part of his plantings?

MR. GULLA: Correct.

MR. HARTWIG: Yes.

MR. GULLA: They are existing and all in good health.

MS. RANSOM: Okay, Eileen, questions?

MS. REGAN: No.

MS. RANSOM: Arlene, anything?

MS. ROBERTS: No. Actually, I visited the site and I actually did drive around very slowly to see if I could actually see where the pool was going to be from the road. In my opinion, I thought that that was the least invasive that somebody was going to actually drive by and see in your pool, so I actually thought that that, considering that they have a hardship, that that lot is so steep I thought it was a good location.

MS. RANSOM: Thank you. Ted, any questions?

MR. DOBIAS: No.

MS. RANSOM: As far as fencing, what's going to be fenced?

MR. GULLA: The entire pool area will be fenced with a fence that meets both New York State Codes as well as the BOAC Codes.

MS. RANSOM: You're not going to fence like any part of the yard in, you're just going to fence the pool in?

MR. GULLA: Correct, the fence is depicted on the plan.

MS. RANSOM: That's what that is, that's a fence.

MR. GULLA: Ah-huh.

MR. RODD: Just so for the sake of consistency as I read it the pool would be on the eastern side of the property?

MR. GULLA: Okay, correct.

MR. RODD: And cause again I'd be drafting the resolution on this, I just want to make sure I'm oriented correctly and although I know the--

MR. GULLA: There should be a north arrow on the plan.

MR. RODD: Yeah, I have a sheet one of two which is very small and but, I mean, just so it's consistent and as one would come up Gayton Drive and look at the house the first part of the house, the wide part of the house appears to be the front of the house?

MR. GULLA: Correct.

MR. RODD: So just for the sake of terminology, we might refer to the area on the opposite side across as the rear, it would result in the same setback requirements and same type of variance, just for the sake of consistency of getting our terms correct?

MR. GULLA: Ah-huh.

MS. RANSOM: Anything else?

MR. RODD: No.

MS. RANSOM: Is there anyone in the audience who'd like

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to speak to this issue? Could we have your name and address?

MR. ENGINITO: Ronald Enginito and Joseph Enginito.

MS. RANSOM: Address?

MR. R. ENGINITO: Five Gayton Drive. I would just like to see on the plan where the pool is going to be. This is his house?

MR. GULLA: Correct.

MR. R. ENGINOTO: This is the pool?

MR. GULLA: Yes.

MR. R. ENGINOTO: And?

MR. GULLA: This is the existing wood line.

MR. R. ENGINOTO: This is where the tree line is, this is here and this is how close to his deck?

MR. GULLA: Probably 20 feet.

MR. R. ENGINOTO: To where?

MR. GULLA: From the deck to the opening for the fence.

MR. R. ENGINOTO: How many more feet to here?

MR. GULLA: I don't know offhand, being that the pool is 35 feet, probably 55 to 60 feet from here to here.

MR. R. ENGINOTO: And the plan don't show my house.

MR. J. ENGINITO: Over here somewhere.

MR. R. ENGINITO: This is the end?

MR. GULLA: These are the stakes for the property lines.

MR. R. ENGINOTO: I'm okay with it and I'm okay with the screened-in porch.

MS. RANSOM: Thank you, appreciate your input. Is there anything else you'd like to add?

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MR. R. ENGINOTO: No, tell him not to play loud music.

MS. RANSOM: Any other questions up here?

MS. REGAN: No, I'm good.

MS. RANSOM: Mr. Hartwig, anything you'd like to add?

MR. HARTWIG: No, thank you.

MS. RANSOM: Okay, then we may make a decision this evening, we have some business to conduct so you're welcome to hang out or the building department will let you know what the outcome was.

MR. GULLA: Will the building department know by tomorrow?

MS. RANSOM: Yes.

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REGULAR MEETING

APPROVAL OF MINUTES

MS. RANSOM: I cannot believe that August 20 was our last meeting. The minutes of the August 20 meeting have been distributed, are there any additions or corrections?

MS. REGAN: I wasn't here.

MS. RANSOM: Hearing no additions or corrections, do I have a motion to approve the minutes as submitted?

MR. DOBIAS: So moved.

MS. RANSOM: Second it.

ROLL CALL

MR. DOBIAS	AYE
MS. REGAN	AYE
MS. RANSOM	AYE

REORGANIZATION

MS. RANSOM: We have to reorganize. Do I have a nomination for chairperson?

MS. REGAN: Laurie.

MS. RANSOM: Do I have a second?

MR. DOBIAS: I'll second it.

ROLL CALL

MR. DOBIAS	AYE
MS. REGAN	AYE
MS. ROBERTS	AYE
MS. RANSOM	AYE

MS. RANSOM: We need a vice chair, I nominate Eileen. I need a second.

MR. DOBIAS: Second it.

ROLL CALL

MR. DOBIAS	AYE
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MS. REGAN	AYE
MS. ROBERTS	AYE
MS. RANSOM	AYE

MS. RANSOM: That motion's carried.

#### CORRESPONDENCE

MS. RANSOM: Let the record show that we received a letter from Nancy Lewitt dated September 2, 2012, it was addressed to the Town Clerk, Supervisor, Town Board, Planning Board and Zoning Board so we have received that.

#### APPROVAL OF 2013 SCHEDULE OF MEETINGS

MS. RANSOM: Okay, the other thing is did everybody get the proposed 2013 dates for the meetings? It's pretty much the same schedule we've had for the last 25 years. Is everybody okay? Do I have a motion to approve the meeting schedule for 2013?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

#### ROLL CALL

MR. DOBIAS	AYE
MS. REGAN	AYE
MS. ROBERTS	AYE
MS. RANSOM	AYE

DECISION - HARTWIG

MS. RANSOM: Okay, Mr. Hartwig's decision. Motion to go into closed session to address legal issues with counsel?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MR. DOBIAS	AYE
MS. REGAN	AYE
MS. ROBERTS	AYE
MS. RANSOM	AYE

(Discussion was held off the record. Whereupon, following which, these further proceedings transpired.)

MS. RANSOM: Let the record show that this was submitted to the Orange County Department of Planning and they have, it was not applicable because it did not meet the requirements for County Planning. So local determination on this one. Let's take the grounds for relief for an area variance one at a time. Will the variance sought produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties in the neighborhood in which the applicant's property is situated?

MS. REGAN: No.

MS. RANSOM: No.

MS. REGAN: It's not, the way it's sited, it's not really visible and the neighbors don't object to it.

MS. RANSOM: Okay, anything, Ted, do you want to add to that?

MR. DOBIAS: No.

MS. RANSOM: Do you want to add anything?

MS. ROBERTS: I agree with her.

MS. RANSOM: Can the benefits sought by the applicant be achieved by some method feasible for the applicant

other than an area variance?

MS. REGAN: Not really.

MS. ROBERTS: No.

MS. RANSOM: No, it's a very strange lot, three front yards. Is the requested variance substantial? We're being asked to, it's a 23 foot variance both for the pool and the deck and the porch, I mean, based on the fact that it's not going to produce an undesirable change in the character of the neighborhood, I don't feel that 23 feet is a large request.

MS. REGAN: Agree.

MS. RANSOM: Ted, you okay?

MR. DOBIAS: Yes.

MS. RANSOM: Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or the district?

MS. REGAN: No.

MR. DOBIAS: No.

MS. ROBERTS: No.

MS. RANSOM: No, as Arlene mentioned that when you drive around you probably will not be able to see the pool. They do have screening on there's that wooded side between the neighbor, there's the evergreen trees that are on top of the rise and they mentioned that they were going to have four foot grasses around the pool so I think that that will certainly mitigate any visual impact to the neighborhood.

MS. ROBERTS: Is that put in their resolution about those grasses or is that left just to be read in the minutes?

MR. RODD: The fact that they're going to have grasses put in?

MS. ROBERTS: There's grasses there now and that they are going to have the grasses there is that part of the resolution is my question?

MR. RODD: Yeah, I normally put in that the applicant has represented that they will do that. You could if you want condition the variance on them doing it so they don't get it unless they do it. But in this case, I think the record establishes but it's your call. Just given the topography itself that the outer perimeter of the land by Gayton slopes dramatically down so you can't see it with or without grasses I think that the board's protected.

MS. REGAN: When I visited he told me that he was going to landscape it.

MS. RANSOM: Yeah, he told me that too and the landscape architect testified to that fact so--

MS. ROBERTS: I have just found in cases in the village where people say they're going to do and then when they are all done they have already spent all their money and exhausted it and if it's not in writing they just don't do it. If it's that important to us that they want it to be done it needs to be mentioned I think is what I'm asking.

MR. RODD: If it's really up to the board if you want to make it a condition of the grant.

MS. REGAN: Is it on here?

MR. RODD: That's your call.

MS. RANSOM: I didn't see any grasses on the map. I'm not sure what all that stuff is, I'm guessing it's some sort of--

MS. REGAN: One is a retaining wall and one is a fence.

MS. ROBERTS: Then there's the leach field.

MS. REGAN: That's in front, I can't see.

MS. RANSOM: What are all these little things? I'm assuming that these are grasses.

MS. ROBERTS: I asked him and he said right here there's not a retaining wall now and he's putting that retaining wall there. And then this section here dips down and it has kind of like a little retaining wall there but he said he's just going to extend it is what he told me when I asked him.

MS. REGAN: I'm good only because if it's not enforced it doesn't make a difference and I don't know who is going to enforce it as we've seen.

MS. RANSOM: Okay.

MS. REGAN: I'm okay, I don't know about everybody else.

MS. RANSOM: Well, the fifth factor is is the applicant's alleged difficulty in complying with applicable zoning self-created? Yes, I mean, the lot is strange but, you know, his request for a pool is certainly self-created but I don't think that that should carry a lot of weight since I don't think there's going to be an adverse effect to the environment and I don't think that it's going to produce an undesirable change in the character of the neighborhood.

MS. REGAN: Agreed.

MS. RANSOM: So we're going to do a motion so I guess the question is do we want to have the grasses as part of the motion? Eileen, you're okay with that?

MS. REGAN: I'm okay with it.

MR. DOBIAS: No, I'm fine.

MS. RANSOM: Are you?

MS. ROBERTS: I'm okay with it then.

MS. RANSOM: Do I have a motion to approve the request by John Hartwig relating to property located at 3 Gayton Drive to allow an 18 by 34 foot kidney shaped inground pool to encroach into the front yard on the lot with three front yards. The pool will be 52 feet from the right-of-way of Gayton Drive on the easterly frontage of Gayton Drive where 75 feet is required. We're also being asked to allow an existing screened-in porch and a wood frame deck that are 52 feet off the property line. Do I have a motion to approve that request?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MR. DOBIAS	AYE
MS. REGAN	AYE
MS. ROBERTS	AYE
MS. RANSOM	AYE

MS. RANSOM: Motion that this is a Type II action under SEQRA?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MR. DOBIAS	AYE
MS. REGAN	AYE
MS. ROBERTS	AYE
MS. RANSOM	AYE

MS. RANSOM: Motion to adjourn?

MS. REGAN: So moved.

MR. DOBIAS: Second it.

ROLL CALL

MR. DOBIAS	AYE
MS. REGAN	AYE
MS. ROBERTS	AYE
MS. RANSOM	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer